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**Getting Away With Murder:**  
Guatemala's Failure to Protect Women  
and Rodi Alvarado's Quest for Safety

November 2005

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# Getting Away With Murder:

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## Introduction

After suffering ten years of brutal domestic violence, with the police and the courts ignoring her pleas for protection, Rodi Alvarado fled Guatemala to seek asylum in the United States. Rodi is not alone in her suffering. Since 2001, over 1,500 women have been murdered in Guatemala.<sup>1</sup> It is believed that up to a third of these killings was the consequence of domestic violence.<sup>2</sup> These gender-based murders, frequently executed with extreme brutality and sexual violence, have been characterized as "femicides."<sup>3</sup> Perpetrators of the femicides enjoy widespread impunity for the crimes. The following alarming facts illustrate the magnitude of the problem:

- § **In the first five months of 2005 there were approximately 312 reported murders of women, averaging more than two per day.**<sup>4</sup>
- § **One third of the victims had previously reported incidents of domestic abuse;<sup>5</sup> it is possible these women were killed precisely because they sought protection from the violence they had suffered.**<sup>6</sup>
- § **Less than ten per cent of femicide cases have been investigated.**<sup>7</sup>
- § **Where there has been some investigation, it has generally been inadequate, with crime scenes left unpreserved, evidence corrupted,**

**and police and prosecutors often failing to follow-up or act on arrest warrants.**

- § **Police officers themselves have been implicated in a number of the femicides.**<sup>8</sup>

In the United States, grants of asylum to women who suffer human rights violations related to their gender ("gender-based asylum") remain controversial. Opponents cite the "floodgates" argument, contending that if the door to refugee protection is open for women fleeing gender-based harms such as domestic violence, the U.S. will be overwhelmed. Although historical experience and statistics demonstrate that the floodgates argument is without substance, it still persists.<sup>9</sup> At the same time, the few women like Rodi who are able to flee will continue to seek the life-saving protection asylum provides, while countless women will remain in their home countries, where their physical integrity and very lives are at risk. Rather than focus on turning away individual refugees based on fear of opening the floodgates, a better response is to examine the conditions which affect entire communities, forcing women to flee their home countries, and to craft policy responses and strategies which address these root causes. The U.S. can, and should, use its considerable influence to pressure the Guatemalan government to end the impunity that exists for the perpetrators of

the crimes against women and to offer real protection of women's human rights.

This report examines the underlying conditions that cause women like Rodi to flee their home countries and seek protection elsewhere. The report starts with a description of the circumstances that led Rodi to leave Guatemala. It then analyzes the widespread violence against, and the murders of women in Guatemala, specifically focusing on the number of murders, the victims, the brutality of the crimes, the context in which they occur, and the theories behind the murders. It next looks to the aspects of the Guatemalan legal and judicial systems that render women vulnerable to violence and fail to

protect them. It then examines the ineffective response from police, prosecutors, and the judiciary that results in widespread impunity for violence against and murder of women in Guatemala. It summarizes Guatemala's existing international obligations to protect women and describes the current U.S. programs offering economic assistance to strengthen the Guatemalan criminal justice system. Finally, it offers recommendations to U.S. policymakers and Guatemalan authorities for ending impunity for the crimes, bringing those responsible to justice, and affording real protections to women, with the goal of eradicating violence against women in Guatemala.

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## Rodi Alvarado's Plight and Her Quest for Safety

Rodi Alvarado was born and raised in Guatemala. The circumstances underlying her flight to the United States demonstrate the failure of her home country to provide any meaningful protection for women who are victims of violence. In 1984, at the age of 16, Rodi married Francisco Osorio, a former soldier, who was five years her senior. Almost immediately after they were married, her husband began to threaten her, and to carry out violent assaults. Those assaults continued without respite over a ten-year marriage. Osorio raped and sodomized Rodi, infecting her with sexually transmitted diseases, broke windows and mirrors with her head, dislocated her jaw, and tried to abort her child by kicking her violently in the spine. Besides using his hands and his feet against her, he also

resorted to weapons, pistol-whipping her and terrorizing her with his machete.

Rodi tried to flee the family home on several occasions, but her husband always tracked her down – one time beating her into unconsciousness in front of their two children to punish her for trying to escape. He told her that she could never get away from him, because he would “cut off her arms and legs, and ... leave her in a wheelchair, if she ever tried to leave.”<sup>10</sup>

Rodi's attempts to secure the protection of the authorities were just as futile as her attempts to hide from her husband. Neither the police nor the courts of Guatemala intervened even once over the entire course of this decade-long brutal marital relationship. The police did not

come when called by a desperate Rodi on the telephone, and they never took any steps to arrest Osorio or require him to appear in response to written complaints filed by Rodi. Osorio enjoyed the same impunity within the court system; when Rodi went before a judge, he told her that he would not “interfere in domestic disputes.”<sup>11</sup> The police had communicated essentially the same thing, telling Rodi that they would not provide her any assistance because she should “take care of it at home.”

Desperate to save her life, Rodi finally fled to the United States — a difficult decision because she was forced to leave her two children behind with relatives. She sought the help of the San Francisco Lawyers' Committee for Civil Rights, and in September 1996, a San Francisco immigration judge granted Rodi asylum.

Unfortunately, the grant of asylum was not the end of Rodi's ordeal. The Immigration and Naturalization Service (INS) appealed the grant to a higher immigration court, the Board of Immigration Appeals (BIA). In June 1999, the BIA reversed the decision of the immigration judge, by a divided 10-5 vote, and ordered that Rodi be returned to Guatemala. The judges on the BIA did this even though they believed her testimony that Osorio had sworn to “hunt her down and kill her” if she returned to Guatemala,<sup>12</sup> and that Rodi could not get protection from the Guatemalan government.

The denial of protection to Rodi Alvarado set off a firestorm of protest by refugee and women's rights activists across the country who saw it as a dangerous precedent cutting back on the protections for women asylum seekers. This vocal activism and outrage

about the denial of protection led Attorney General Janet Reno to become personally involved. In December 2000 the Justice Department issued proposed regulations to address gender claims, and Janet Reno “vacated” the BIA's decision in Rodi's case, directing the BIA to re-decide the case once the regulations were issued in final form.

Almost five years have passed and the regulations have still not issued, with Rodi's plea for protection remaining unresolved. In February 2003 Attorney General John Ashcroft took the unusual step of ordering the BIA to send Rodi's case to his office for a decision. Credible sources within the Department of Justice indicated that Mr. Ashcroft intended to reinstate the BIA's original unacceptable decision. However, thanks to a concerted campaign involving national women's rights, human rights and refugee rights organizations, Mr. Ashcroft's hand was stayed. In his final days as attorney general, Ashcroft sent the decision back to the BIA to await the regulations, declining to decide the case himself and grant asylum. The Attorney General's refusal to grant asylum was all the more notable in light of the fact that in February 2004, the Department of Homeland Security (DHS), the successor agency to the INS, which had opposed asylum for Rodi for eight years, reversed its position and not only filed a brief urging the Attorney General to recognize her as a refugee, but endorsed the issuance of regulations which would mandate such a result.

It remains to be seen whether the Justice Department, under the direction of Attorney General Alberto Gonzalez, will adopt a similar position and work with the DHS to finalize regulations pending since 2000 so that they do in fact support a grant

of asylum to Rodi. In the meantime, protection for Rodi and many other women like her remains uncertain.

More than a decade ago, Rodi Alvarado was forced to flee Guatemala due to the impunity her batterer enjoyed; this crisis of impunity continues unabated today. A spiked increase in the murders of Guatemalan women serves to highlight the scope of the state's failure to protect

women. The Guatemalan femicides constitute the clearest manifestation of the alarming lack of protection from life-threatening violence for Guatemalan women. Rather than fearing the opening of the floodgates which could result from a grant of asylum to Rodi Alvarado, the U.S. should turn its attention to the root causes of violence and impunity which result in the flow of refugees.

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## The Femicides

### The Numbers

Recent reports track the disturbing rise in femicides in Guatemala.

- § According to police data in a report released by the Ombudsman for Human Rights in Guatemala, **317 women were murdered in 2002. Amnesty International reports that in 2004, the number of women murdered rose to 527.**<sup>13</sup>
- § The general increase in the overall murder rate cannot account on its own for the phenomenon of femicides; while the murders of men increased by 36% between 2002 and 2004, in the same time period, the murders of women increased by 56%.<sup>14</sup>
- § In the first five months of 2005, the number of femicides reached 312, averaging two murders per day, and surpassing the number of women killed during all of 2001.
- § According to the U.N. Rapporteur on Violence Against Women, the pattern of murders of women in Guatemala

shows similarities with those reported in El Salvador, Honduras, and Mexico, but in Guatemala the rate at which women are being killed is significantly higher. Referring to the much-publicized Ciudad Juarez murders, the Rapporteur declares, "[a]lthough 370 women were killed in Chihuahua, Mexico over a 10-year period (1993 to 2003), nearly the same number of women was killed in Guatemala in 2003 alone."<sup>15</sup>

### The Victims

**According to the statistics available, most of the women killed are between the ages of 13 and 36.<sup>16</sup> The occupation of the victim is unknown in a significant percentage of the murders,<sup>17</sup> and a recent Amnesty report describes the victims as "students, housewives and professionals, domestic employees, unskilled workers, members or former members of street youth gangs, and sex workers."<sup>18</sup> Those whose occupation is unknown or who are classified as housewives are thought to possibly be employed in the maquiladoras**

(factories that import materials for assembly or manufacturing) or to be participants in the informal economy. Most of the murders have taken place in urban areas of the country, with the highest number of murders occurring in the country's capital, Guatemala City.<sup>19</sup> However, the statistics kept by the police do not indicate the origin of the women, so it is difficult to determine whether they were from the capital, or had relocated there from other regions of the country.<sup>20</sup>

## The Crimes

### The Case of Claudina Velásquez

On Friday, August 12, 2005, 19-year-old law student, Claudina Isabel Velásquez Paiz, left for class at the University of San Carlos. She arrived at school and attended her two Friday morning courses, human rights and constitutional rights. When she did not arrive home that evening, her parents began searching hospitals and police stations for their daughter. They contacted the National Civil Police (Policía Nacional Civil or PNC) to assist in their search. However, they were informed that the police would not begin searching for their daughter until she had been missing for 24 hours. Midday on Saturday, August 13, Claudina's parents were called to identify their daughter's body at the morgue. She had been raped, brutally beaten and killed. She died as a result of two bullet wounds to the head.

As of October 2005, the investigation into Claudina's death was in its "summary phase," making it difficult for Claudina's parents to obtain information from the authorities. This difficulty was exacerbated by the fact that the Criminal Investigation System officer in charge of her case was on

vacation and a replacement investigator had not been assigned. Information obtained from Claudina's friends and family revealed terrible inadequacies in both the investigative and prosecutorial processes.

According to witnesses who heard the gunfire, Claudina was shot some time in the early morning hours of August 13, 2005. However, the authorities never established the time of her death. It was not until 11:30 p.m. that same day, after her body had been in the morgue for many hours, that an agent from the Office of the Public Ministry (Ministerio Público) – the Guatemalan equivalent of the Prosecutor's office – arrived to take Claudina's fingerprints. Although skin and fluid samples were taken from Claudina's body, no analysis was conducted. The clothing that she was wearing at the time of her death was turned over to her family and there was no forensic analysis of the clothing.

Statements obtained from witnesses indicated that Claudina spent the afternoon of August 12 in a condominium building in Ciudad San Cristobal in the municipality of Mixco. Although this building had private security, the Public Ministry never searched or took as evidence the registry of entrances and exits for the 12<sup>th</sup> and 13<sup>th</sup> of August. There was further information that Claudina was seen accompanied by other people in a supermarket on the night of August 12. However the Public Ministry did not search or take control of the supermarket's surveillance videos, nor did they request a statement from the store manager on duty the day of the murder.

Five days after Claudina's murder, the primary suspect, without having been

summoned, made a voluntary statement at the Public Ministry. Human rights advocates close to the case remarked on the failure of the authorities to take the suspect's fingerprints, or to take him into custody – even though the advocates believed there was a sufficient basis for issuing an arrest warrant.<sup>21</sup>

The way in which Claudina's case was handled demonstrates a number of failings in the investigative and prosecutorial processes that are characteristic of the authorities' handling of the femicides. Although Claudina's parents reported her missing when she failed to arrive home on the evening of August 12, the PNC refused to begin a search until she had been missing for 24 hours. After Claudina's body was found, the Public Ministry failed to conduct forensic analysis of skin, fluid, and clothing. Authorities failed to obtain evidence or pursue suspects relevant to the case. The lack of response by authorities, a pattern that has repeated itself in nearly all of the

other femicides, allows those responsible to enjoy impunity for their crimes.

Sadly, the brutal beating and sexual violence inflicted on Claudina before she was shot is not uncommon to the Guatemalan femicides. According to Amnesty International's recent report, "a key characteristic in many of the cases of women who have been killed in recent years is the brutality of the violence involved."<sup>22</sup> **Sexual violence is a characteristic of many of the murders, and mutilation of the bodies is frequent.**<sup>23</sup> **In some cases, the bodies are placed and mutilated in a way thought to be sending a message of terror and intimidation, leading the Inter-American Commission for Human Rights' Special Rapporteur on Violence Against Women to label these "exemplary" killings.**<sup>24</sup> The actual number of murders involving sexual violence is unknown, as the Guatemalan authorities do not currently classify murders in a way that takes into account this type of gender-based violence.<sup>25</sup>

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## The Context

The femicides are notable for their brutality and the continuing impunity of those responsible. Conditions in Guatemala, which include a high incidence of violence in the home, sex discrimination in the workplace, a 36-year legacy of violence against women, patriarchal traditions and poverty, have set the stage for this epidemic of violence against women.

## Violence in the Home

A U.S. State Department Report notes that in 2003 the prosecutor's office received 4,850 reports of family violence. None of these reached trial.<sup>26</sup> In its 2004 report, the State Department noted that in Guatemala City alone, 10,000 reports of family violence were received by the prosecutor's office, with only 370 reaching trial.<sup>27</sup> Because the Human Rights Ombudsman and prominent women's rights NGOs estimate that 90%



of incidents go unreported, it is fair to assume that the actual incidence of family violence is exponentially higher than the number reported.<sup>28</sup>

### **Sex Discrimination in the Workplace**

Human Rights Watch's 2002 report on sex discrimination in the Guatemalan labor force makes clear that women's inequality in Guatemala extends to inequality in the workforce.<sup>29</sup> While the number of Guatemalan women in the workforce increased, from constituting 4% of the workforce in 1989 to 16% in 2003,<sup>30</sup> in the same time period, women's average salaries dropped from 87% to 59% of a man's salary.<sup>31</sup> The increase in women's participation in the economy has occurred in the least protected sectors, specifically in the maquila sector. "The advent of the maquila sector in the 1980s meant a boom in factory jobs for women, particularly in the capital and the surrounding area."<sup>32</sup> Women also continue to dominate in the informal sector, constituting 98% of the paid domestic workers in the country.<sup>33</sup> Abuses of both domestic workers and maquila workers are well documented, with poor working women subjected to inadequate wages, long hours, sexual violence, sexual harassment, and lack of access to health care.<sup>34</sup>

### **A 36-year Legacy of Violence against Women**

The signing of the 1996 Peace Accords marked the end of a 36-year internal armed conflict in Guatemala that began in 1960. Women constituted a quarter of the 200,000 victims of the conflict, and suffered forms of violence unique to them as

women. During the conflict, agents of the state, including members of the Guatemalan military and the Civil Defense Patrols, used sexual violence as a weapon of war systematically and with complete immunity,<sup>35</sup> with women suffering 99% of the sexual violations.<sup>36</sup> Sexual assaults were so widespread in the highland combat zones that one local official commented that it would be difficult to find a Mayan girl of eleven to fifteen who had not been raped.<sup>37</sup> A generation of young men forcibly recruited to the army were indoctrinated in the use of sexual violence as a weapon. While the Peace Accords are long-since signed, the war against women seemingly continues, with the attitudes and practices of violence against women developed during the conflict persisting nearly ten years later.

### **Patriarchal Traditions**

Guatemala has a deeply rooted culture of patriarchy, enshrined until recently within its Civil Code. Women's rights groups were successful in pushing for the reform on these provisions in 1998, but the assumptions underlying these now defunct provisions still hold true for many Guatemalans. Until the 1998 reforms, the Civil Code provided that

- § The husband had the duty to protect and support his wife, while she had the right and duty to care for and raise minor children and oversee domestic tasks
- § Husbands could legally object to their wives working outside the home
- § Husbands alone could legally represent the married couple, and they were the sole administrators of the household's

financial resources, as well as of any of the family assets

- § Even when parents had joint custody, fathers were still the sole legal representatives of their children and the administrators of their assets

Until a 1999 reform, a husband could object to his wife working outside the home when, in his opinion, she neglected household and childcare activities. Today, provisions of the Labor Code place women in the same category as children. For example, Title IV of Chapter 2 of the Code is entitled "Work of Women and Minors," and article 147 of this Chapter states, "The work of women and minors should be appropriate to their age, physical conditions or physical state, and their intellectual and moral development."

## Poverty

Many of the women who have fallen victim to the femicides are poor.<sup>38</sup> Poverty affects Guatemalan women disproportionately, as they have less access to education and health care than their male counterparts.<sup>39</sup> Of every eight girl children who begin elementary school, only one finishes the sixth grade, and only 17% of adult women have completed high school.<sup>40</sup> "Guatemala has the second lowest total female literacy rate in Latin America, after Haiti, and the worst female to male literacy ratio in the region."<sup>41</sup> Guatemala ranks lowest in Central and South America's U.N. human development index and for other key indicators, including life expectancy, infant mortality, chronic malnutrition for children and literacy.<sup>42</sup>

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## The Theories

The lack of proper investigation and prosecution of the recent murders increases the difficulty in pinpointing who is behind the femicides, but several different theories have emerged, ascribing blame to different societal factors or agents, including domestic violence and backlash against women in the public sphere, an overall increase in the general crime rate, the security forces, and even the victims themselves.

### **Domestic Violence and Backlash Against Women in the Public Sphere**

According to the Red de la No Violencia Contra las Mujeres (Network of No Violence Against Women), a broad

coalition of women's organizations, one-third of all murders are the consequence of domestic violence.<sup>43</sup> The U.N. Rapporteur on Violence Against Women points to the unstable and vulnerable post-civil war circumstances as predisposing heads of household "to experience sexual and domestic violence as well as stigmatization."<sup>44</sup> The surge in violence is also viewed as a backlash against women's increasing presence in the public sphere. There is a documented increase in households headed by women, due to widowhood owing to wartime violence, internal displacement, migration of men for work, marital dissolution, and abandonment of the family by men.<sup>45</sup>

## An Increase in Crime

Ironically, the Special Prosecutor for Crimes Against Women does not view the rise in murders of women as being motivated by their gender. She attributes the skyrocketing number of killings of women to the general increase in crime, and has stated that the "violence is not gender violence."<sup>46</sup> The documented escalation in crime has been attributed to:

- § **Gang Members:** The young members of Guatemalan gangs (known as "maras") are most frequently cited as being responsible for the murders. The head of the Unit on Aggression Against Women of the Criminal Investigative Service (Servicio de Investigación Criminal or SIC) has said, "[t]he majority of the deaths can be attributed to gang members who, as a result of jealousy or other personal problems, have killed their live-in partners, wives, or girlfriends."<sup>47</sup> While gang violence undoubtedly is a factor, the authorities tend to categorize all of the femicides as gang-related without having carried out proper investigations.
- § **Organized Crime/ Drug Traffickers:** Due to the well-planned nature of some of the murders and the strategic placement of bodies, others place a greater share of the responsibility for the murders on individuals engaged in

organized crime, including drug trafficking. One congresswoman hypothesizes that these individuals are using the murders to distract the authorities from investigating their profit-making criminal activities.<sup>48</sup>

## Security Forces, including the Police Force

There is evidence that private security forces and the police themselves are committing some share of the murders; the Ombudsman for Human Rights reported 23 police officers to the authorities for their involvement in crimes against women,<sup>49</sup> and police officers are thought to be involved in at least ten of the murders.<sup>50</sup>

## The Victims Themselves

Some government officials have made public statements to the media placing responsibility for the murders on the victims themselves. For example, in 2004, Guatemalan president Oscar Berger said, "[w]e know that in the majority of the cases, the women had links with juvenile gangs and gangs involved in organized crime."<sup>51</sup> Additionally, investigations by both the police and the prosecutors have focused on the "character" of the victims rather than on the motives of their murderers.<sup>52</sup>

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## The Laws

As discussed above, it may be impossible to pinpoint a single theory explaining all of the femicides. However, it is possible to

identify government attitudes towards potential victims through an analysis of Guatemala's laws. While Article 4 of the

Guatemalan Constitution guarantees equal rights for men and women, this is not reflected in sections of the Criminal Code that render women vulnerable to violence. In the current atmosphere, where brutal murders, often coupled with sexual violence, have become a daily occurrence, the Criminal Code fails to effectively protect victims.<sup>53</sup>

### Crimes of Sexual Violence

- § Rape occurring within marriage is currently unrecognized as a crime. Therefore, spouses and live-in partners cannot be prosecuted for such an act. This serves to reinforce the idea that women have the obligation to sexually satisfy their husbands/partners.
- § An offender is released from criminal responsibility or from penalties for a crime of sexual violence if he marries his victim, as long as she is twelve or older. The stated legislative end of this practice is the restoration of a woman's honor. Instead, it sentences a girl or woman to a lifetime with her rapist.
- § According to the Guatemalan Code of Criminal Procedure, the initiation of prosecution for rape and other sexual crimes depends on the victim.<sup>54</sup> Furthermore, if an offender obtains a pardon from his victim, he is released from criminal responsibility if his crime falls under a certain category, consisting primarily of sexual crimes against women, including rape, sexual abuse, and abduction. Amnesty International notes that these provisions can lead victims, "exposed to pressure or coercion, who are unaware of their rights, or who lack funds for legal assistance or faith in the justice system, into not filing complaints and may also

encourage prosecutors to dissuade victims from filing complaints."<sup>55</sup>

- § It is a crime to have sexual relations with a minor only as long as the victim is considered "honest." This focus on the victim's perceived character and conduct rather than on the perpetrator's punishment has emerged as an undercurrent in the government's investigation and reporting of the femicides.

### Domestic Violence

- § Despite its nearly epidemic levels, domestic violence is currently not criminalized. The 1996 "Law to Prevent, Sanction, and Eradicate Intra-Family Violence" failed to criminalize the practice and has been sparingly applied.
- § When violence against women occurs in a family setting, prosecutors have stated that the perpetrators can only be charged with assault if signs of physical injury from the abuse persist for ten days. One prosecutor explained: "Family violence does not constitute a crime; as a consequence, a case cannot be initiated unless there are injuries. In that case, it should be determined how much time will be required for the injuries to heal in order to establish whether or not a case should be opened. However, when the woman appears and there are no injuries present, there is nothing that can be done."<sup>56</sup>

This approach requires the violence to be so grave that signs of injury persist for ten days; in addition it ignores other forms of violence, including psychological violence,

and decreases the possibility for penal or judicial intervention at a time when it could

actually prevent a woman from being murdered.

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## The Response

“The major problem confronting the State is its inability to provide women with legal, judicial and institutional protection from violence.”

- *Yakin Erturk, United Nations Special Rapporteur on Violence Against Women*

Amnesty International's report, *No Protection, No Justice: Killings of Women in Guatemala*, released earlier this year, chronicles the shortcomings in investigation and prosecution of the femicides. These include:

- § Delays and insufficient efforts by police to locate women who have been reported missing, including a lack of coordination between the missing persons unit and the homicide unit.
- § A frequent failure to protect, examine or preserve the crime scene once a body has been discovered, and a failure to gather necessary forensic or other evidence. Clashes between the police and the prosecutors often render the crime scene an object of dispute, further undermining the investigative process.
- § Extremely poor collection of data, including location and time of the discovery of the body, and evidence regarding gender-related forms of violence found on the body. As the report notes, the “almost total absence of sex-disaggregated data means that gender-related violence is generally

under-recorded and often rendered almost invisible.”<sup>57</sup>

- § Failure to follow up on crucial evidence and failure to act on arrest warrants.

The escalating number of femicides further demonstrates the inadequacy of the state response in preventing, investigating, and prosecuting these murders. Both the police and the prosecutors have retreated from treating the femicides as anything other than a product of a general increase in crime, denying the gender-based aspects of these murders.

## The Police

The National Civil Police (PNC), a relatively new force, was created in 1997 as part of the follow-up to the Peace Accords.

- § Following the visit by a U.N. Rapporteur, in mid-2004, an elite unit was created to address the murders of women. The Inter-American Commission on Human Rights Rapporteur, visiting a few months later, found that each officer in this squad had been assigned 23 cases, and had very limited resources. All 22 officers shared one cell phone and one car. Earlier this year, this unit was further weakened by the transfer of 17 of its 22 investigators to the general “Murder Unit,” leaving a handful of officers to handle 257 criminal investigations. The

head of the PNC justified this move, stating that more men are murdered than women and that the general Murder Unit will investigate "without regard to gender."<sup>58</sup>

§ Members of the PNC themselves have been implicated in some of the murders of women. According to the Ombudsman for Human Rights, no action has been taken against 23 officers who were implicated in ten crimes against women.<sup>59</sup>

§ The PNC has also been criticized for its institutionalized corruption and the infiltration of organized crime. The cleansing of corrupt officers from the ranks has proved ineffective, as officers are discharged with a clean record and can rejoin the force after having worked two or three years as private security guards.<sup>60</sup> In 2004, there were 21,382 PNC officers and 110,000 private security guards, of which at least 60,000 were unauthorized.<sup>61</sup> About half of the private security firms were owned by former soldiers and former policemen.<sup>62</sup> The proliferation of these groups has not led to increased security.

## The Prosecutors

The Public Ministry is charged with investigating crimes and prosecuting offenders, but according to the U.S. State Department its efforts have been hampered by "inadequate training and equipment, excessive caseloads, and insufficient numbers of qualified investigators."<sup>63</sup>

§ Until August of 2004, the Office for the Special Prosecutor for Crimes Against Women directed the investigation and prosecution of murders of women. By September 2004, only one of its 152

cases had reached the trial stage.<sup>64</sup> The U.N. Special Rapporteur on crimes against women reported that **40% of murder cases involving women were archived and never investigated.**<sup>65</sup>

§ **In 31% of the cases being handled by the Special Prosecutor, the murder victims had been previously threatened and had filed reports.**<sup>66</sup>

One PNC officer stated that the "majority of the women that have been assassinated is on account of the fact that they reported their cases to the Public Ministry."<sup>67</sup>

§ The Special Prosecutor also reported to Amnesty International that "victims of domestic violence were having to wait 20 days before prosecutors in her office could see them owing to their excessive caseloads."<sup>68</sup> One prominent NGO estimates that a third of murders occur within the family after the victims have suffered violent incidents and attacks, often in silence, for many years.<sup>69</sup> The lack of services to victims of domestic violence therefore proves deadly.

§ In September 2004, the responsibilities of the Prosecutor for Crimes Against Women were shifted to the Prosecutor for Crimes Against Life, charged with investigating all murders in Guatemala City. However, in March 2005, this Prosecutor declared that **his office could not manage the numbers of complaints regarding alleged killings occurring daily in the Capital.**<sup>70</sup>

§ Even as the murder rate for women increases, the work of the Public Ministry's Office for Attention to Victims (Oficina de Atención a la Víctima or OAV), an agency charged with receiving reports and providing assistance to victims of violence, has

been scaled back. Today, the OAV will only accept reports from women who are considered to be victims of "high impact crimes." As family violence is not considered a crime at all, reports from women who are victims of family violence are no longer accepted. These victims previously constituted the majority of the OAV's caseload. Following these changes, in December of 2004 the OAV saw less than 100 clients, having previously averaged over 500 a month.<sup>71</sup>

### Other Initiatives

Apart from the now virtually defunct police and prosecutorial units formed to investigate crimes against women, various initiatives have been created to address the issue.<sup>72</sup> These initiatives are crippled by an almost total lack of funding.

§ **CONAPREVI**, the National Coordination to Prevent, Punish, and Eradicate Violence In the Family and

Violence Against Women, was created in 2001 and includes representatives from the executive, judiciary, and the Public Ministry, as well as representatives from the Red de la No Violencia Contra las Mujeres.

CONAPREVI is tasked with the implementation of the law to prevent, punish, and eradicate domestic violence. CONAPREVI's 2005 budget is 177,000 quetzales (approximately 23,000 USD).

§ CONAPREVI recently launched **PLANOVI**, a progressive national plan (covering the time period 2004 to 2014) for the prevention and eradication of violence against women, based on the understanding that all state institutions are responsible for ending all forms of violence against women. According to Hilda Morales Trujillo, a scholar, activist, and representative of the Red de la No Violencia, no funding has been allocated for the execution of PLANOVI in 2005.

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### Guatemala's Existing Obligations

Through the ratification and passage of international, regional and domestic instruments, Guatemala has committed itself to the protection of women's rights. These instruments include:

§ **Convention on the Elimination of all forms of Discrimination Against**

**Women (CEDAW)**, and its Optional Protocol

§ **Interamerican Convention to Prevent, Sanction, and Eradicate Violence against Women**

§ **1996 Peace Accords**

§ **Article 4 of the Guatemalan Constitution** guaranteeing equal rights for men and women

## The United States' Current Investment in Rule of Law and Women's Legal Rights in Guatemala

"For the United States it is important that I state clearly that support for military forces and intelligence units which engaged in violence and widespread repression was wrong, and the United States must not repeat that mistake."

– *President Clinton, during a 1999 visit to Guatemala*<sup>73</sup>

While the U.S. support referred to by President Clinton laid the groundwork for the human rights abuses during the years of the internal conflict, in recent years the U.S. has provided economic assistance to Guatemala to strengthen democratic institutions and the rule of law, as well as to advance the legal rights of women.<sup>74</sup> These funds have primarily been awarded through the following programs:

§ Under the "Rule of Law" economic assistance program administered by USAID, the U.S. has provided roughly \$38.5 million in economic aid to Guatemala since 1992.<sup>75</sup> Rule of Law assistance provides support for criminal justice reform, greater access to the justice system for poor and marginalized populations, and strengthened capacity of law enforcement agencies to investigate crimes.<sup>76</sup> The current Guatemala Rule of Law program,

"Ruling Justly," was allocated \$7.8 million in 2005.<sup>77</sup>

§ In 2002, the USAID's Office of Women in Development established the Women's Legal Rights Initiative (WLR), run by the private firm, Chemonics International. The WLR Project focuses on strengthening the institutional capabilities of government ministries, universities, and NGOs to improve women's legal rights and indigenous women's access to justice.<sup>78</sup>

§ The International Criminal Investigative Training Assistance Program (ICITAP), formerly administered by the Department of Justice and now subsumed by the Bureau for International Narcotics and Law Enforcement Affairs, provided \$13.6 million in economic assistance to Guatemala between 1992 and 2002. ICITAP funds are directed towards the unification of police and prosecutor forensic laboratories, the establishment of an Internal Affairs Unit at the Public Ministry, the computerization of police case files, and the continued development of a model precinct that includes offices for prosecutors and judges to increase successful case investigation and closure.<sup>79</sup>

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## Recommendations

The significant investment of U.S. resources is having no discernible positive impact on the Guatemalan government's

response to the investigation or prosecution of the femicides. The following recommendations are intended to ensure



that 1) the U.S. government uses its considerable influence to pressure the Guatemalan government to seriously address the violation of women's rights; and 2) the Guatemalan government's measures to prevent femicides, to prosecute the perpetrators, and to punish those officials responsible for widespread impunity produce concrete results and lead to overall improvements in the situation of women in Guatemala.

Recommendations for U.S.  
Policymakers

### **Sponsor and Support Congressional Resolutions**

Congress should pass a joint resolution condemning the murder of 1,500 women in Guatemala since 2001, similar to its 2005 joint congressional resolution condemning the murders of approximately 410<sup>80</sup> women since 1993 in Ciudad Juarez, Mexico.<sup>81</sup> The congressional resolution regarding the murder of women in Guatemala should:

- § Identify these murders as gender-based.
- § Condemn the femicides and violence against women in all its forms – including domestic violence – as a violation of international human rights.
- § Express sympathy and condolences to the families of femicide victims.
- § Encourage the U.S. Department of State to assist Guatemalan authorities in resolving the crimes.
- § Encourage the President and Secretary of State to incorporate the investigative and preventative efforts of the Guatemalan government in the bilateral agenda between the governments of Guatemala and the United States, and to

continue to express concern over the femicides to the government of Guatemala.

- § Encourage the Secretary of State to include in the annual Country Report on Human Rights of the Department of State all instances of improper and inadequate investigatory methods, prosecution, conviction and sentencing with respect to cases of violence against women, and femicides in Guatemala.
- § Encourage the Secretary of State to urge the Guatemalan government to hold accountable those law enforcement officials whose failure to adequately investigate the murders, whether through negligence, omission, or abuse, has led to impunity for these crimes.
- § Recommend that the U.S. Ambassador to Guatemala meet with the families of the victims, women's rights organizations, and officials responsible for investigating and preventing these crimes.

### **Sponsor and Support a Congressional Delegation to Guatemala to Investigate the Femicides**

Following the lead of the congressmembers in 2003 who participated in a delegation to Ciudad Juarez to investigate the abductions and murders occurring there, current members of Congress should support and participate in a delegation to Guatemala to investigate the femicides.<sup>82</sup> Like the 2003 delegation to Ciudad Juarez, a delegation to Guatemala should:

- § Consist of congressmembers, representatives of NGOs and human rights organizations.
- § Meet with victims' families, Guatemalan human and women's rights

organizations, Guatemalan legislators, and Guatemalan authorities, including officials from the PNC, Public Ministry, and Special Prosecutor's Office.

- § Undertake concrete steps following the delegation, which would include addressing foreign policy and economic support to Guatemala.<sup>83</sup>

### **Raise Concerns with Guatemalan Officials**

U.S. officials should regularly raise their concerns about the murders with Guatemalan officials at all levels and in all encounters. Given the U.S. national interest in fulfillment of the 1996 Peace Accords,<sup>84</sup> U.S. policymakers should:

- § Pressure Guatemalan officials to bring legislation and policy in line with international standards on violence against women.<sup>85</sup>
- § Pressure Guatemalan officials to make changes in civil and criminal codes regarding violence against women and domestic violence.<sup>86</sup>
- § Pressure Guatemalan officials to draw up, implement, and monitor guidelines and procedures to cover all stages of investigation into reports of violence against women, particularly those areas of investigation related to scientific evidence in accordance with international standards.<sup>87</sup>
- § Encourage Guatemalan authorities to facilitate coordination and collaboration among the state institutions, especially the PNC, the Public Ministry and the judiciary, involved in the investigation and prosecution of femicides.
- § Pressure Guatemalan officials to improve forensic examination services including the establishment of a

forensics laboratory in order to carry out DNA tests.<sup>88</sup>

- § Pressure Guatemalan officials to establish a comprehensive database of missing women accessible to all agencies within the criminal justice system in order to coordinate and expedite investigations of femicides and missing persons.<sup>89</sup>

### **Promote the Eradication of Femicide and Transparency Within the Guatemalan Criminal Justice System Through On-Going Projects Administered by USAID**

Given that USAID currently provides millions of dollars in economic assistance to promote women's legal rights,<sup>90</sup> and to support the Guatemalan criminal justice system,<sup>91</sup> USAID should:

- § Identify femicide as a violation of women's human and legal rights through the Women's Legal Rights (WLR) Project, administered by the independent consulting firm Chemonics International Inc.<sup>92</sup>
- § Request the WLR team to collect data on the investigation, prosecution, conviction and sentencing of the perpetrators of these crimes and publish the data in its Quarterly and Annual Best Practices Reports.<sup>93</sup>
- § Identify femicides as a problem in its Ruling Justly program and set forth specific goals aimed at eradicating them by increasing the capacity of Guatemalan authorities to investigate, prosecute, convict and sentence the perpetrators.
- § Allocate a portion of existing economic assistance to fund the establishment of a

state forensics laboratory for DNA testing and forensics training.<sup>94</sup>

- § Provide data and statistics demonstrating a decrease in violence and a corresponding increase in prosecution and conviction for these crimes.

### **Sponsor and Support Legislation that Takes Broad Measures Aimed at Eradicating Violations of Women's Human Rights Worldwide**

In addition to the measures exclusively focused on Guatemala, the U.S. government should adopt broader measures that would pressure all states to implement reforms to meaningfully address violations of the human rights of women. Modeled on the International Religious Freedom Act of 1998,<sup>95</sup> and the Trafficking and Violence Protection Act of 2000,<sup>96</sup> congressional legislation aimed at eradicating international violations of women's human should:

- § Require the Secretary of State to issue annual reports on women's human rights.
- § Through annual reports, identify countries that have engaged in or tolerated particularly severe violations of women's human rights.
- § Require countries – like Guatemala – to provide specific statistics regarding the cause of death of victims of violence against women, including femicide, as well as data about the investigation, prosecution, conviction and sentencing of those responsible for the crimes. Economic Assistance provided under the Foreign Assistance Authorization Act should be contingent on provision of such data.<sup>97</sup>

- § Provide specific punitive measures, including economic sanctions, for countries that continue to engage in or tolerate severe violations of women's rights.<sup>98</sup>

### **Recommendations for the Guatemalan Government**

#### **Publicly Condemn the Abduction and Murder of Women and Girls**

Given the Guatemalan government's stated commitment to the eradication of violence against women and given that 1,500 women have been murdered in Guatemala since 2001, the Guatemalan government should publicly condemn the abduction and murder of women and girls.

#### **Establish Concrete Guidelines and Procedures for All Steps of Criminal Investigation into Reports of Violence Against Women**

Given that Guatemalan authorities have failed to adequately investigate, prosecute, convict and sentence perpetrators of violence against women in general, and femicide in particular, concrete guidelines for all steps of investigation are necessary.

#### **Bring Legislation in Line with International Standards on Violence against Women and Establish Criminal Penalties for Domestic Violence, Including Marital Rape**

Given that one-third of all cases of femicide take place within the family after the victims have suffered violent incidents or attacks, often in silence, for many years,<sup>99</sup> Guatemalan legislators should amend the

Criminal Code to establish criminal penalties for domestic violence, including marital rape; eliminate the portion of Article 200 of the Criminal Code that exonerates a rape offender upon marrying the victim of the crime,<sup>100</sup> and invalidate the law criminalizing sexual relations with a minor only in cases where the victim is considered "honest."<sup>101</sup>

### **Establish a Central, Unified Database of Missing Persons**

Given the current lack of a single database of missing persons, and the resulting lack of coordination between the homicide unit and missing persons unit of the PNC,<sup>102</sup> Guatemalan authorities should take immediate steps to establish a central, unified database of missing persons accessible to every official body responsible for law enforcement, investigation and prosecution of these crimes.

### **Establish a State Forensics Lab**

Given the current lack of a forensics lab for DNA testing available to the PNC and the Public Ministry, and given that under the current system, many DNA tests are corrupted, inhibiting the investigation of femicides,<sup>103</sup> Guatemalan authorities should establish a forensics lab in order to administer DNA tests.

### **Train Judges and Prosecutors in Matters Related to Violence Against Women**

Given that a major weakness in the administration of justice in Guatemala is a lack of judges and prosecutors who fully understand the legal framework from a gender perspective,<sup>104</sup> and that the

Guatemalan judiciary and the Prosecutor's office play significant roles in determining whether to prosecute acts of domestic violence<sup>105</sup> and grant restraining orders for women seeking protection, Guatemalan judges and prosecutors should be trained in matters related to violence against women.<sup>106</sup>

### **Reform and Rebuild the State to End the General Climate of Impunity that Exists in Guatemala**

Given that an insidious alliance between criminal elements and the still-present counter-insurgency structures continues to exist, the allegations that some of the femicides have been linked to organized crime and security forces, including the PNC, and that these groups have enjoyed a general climate of impunity for their crimes, the government should expedite the creation of a mechanism to address the illegal activities of clandestine security groups and those undertaken by structures within the state.<sup>107</sup>

### **Invite the U.N. Special Rapporteur on Violence Against Women and Special Rapporteur on Extrajudicial, Summary or Arbitrary Killings for a Joint Visit to Guatemala**

Given the Guatemalan government's invitation in 2004 to Yakin Erturk, U.N. Special Rapporteur on Violence Against Women, to visit the country to investigate discrimination and violence against women,<sup>108</sup> and given the ongoing crisis of violations of women's rights, the Guatemalan government should extend an invitation to the U.N. Special Rapporteurs on Violence Against Women and on Extrajudicial, Summary or Arbitrary

Killings for an official visit to the country to examine and identify the achievements and remaining challenges in the government's response to violence against women in all its forms, including femicide.

**Implement all of Amnesty International's Recommendations Detailed in its 2005 Report on the Killings of Women**

Given Amnesty International's comprehensive investigation and analysis of femicide in Guatemala,<sup>109</sup> the Guatemalan government should immediately implement all of Amnesty's recommendations including:

§ Making clear that the full force of law will be brought to bear on those

accused of violence against women, and that those responsible, including members of the security forces and non-state actors, will be brought to justice.

§ Ensuring that the nature and dimension of gender-related violence is fully reflected in official reports, statistics, analyses and forensic records.

§ Increasing the resources provided to the Public Ministry's Office of the Prosecutor for Crimes Against Women.

§ Conducting education and advertising campaigns to promote zero tolerance of violence against women and to eradicate discrimination.

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## Conclusion

The U.S.'s significant economic assistance to the Guatemalan criminal justice system has had little impact on improving the Guatemalan authorities' response to femicide and other acts of violence against women. If the U.S. seeks to stem the flow of refugees fleeing gender-based harms, it must address the root causes of refugee flows and use its considerable influence to pressure the Guatemalan government to implement concrete reforms in its legal code and criminal justice system to protect the human rights of women.

The Center for Gender & Refugee Studies urges U.S. policymakers to pursue the recommendations detailed in this report so that the Guatemalan government will meet its obligation to protect women's human rights and to eradicate violence against women.

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<sup>1</sup> Although the precise number of murders is unknown, most sources estimate at least 1,500 killings of women since 2001. See Appendix One.

<sup>2</sup> According to the Red de la No Violencia Contra las Mujeres (Network of No Violence against Women), a third of all cases of murder take place within the family after the victims have suffered violent incidents and attacks, often in silence, for many years. Amnesty International, *No Protection, No Justice: Killings of women in Guatemala*, at 12 (June 2005) available at <http://web.amnesty.org/library/Index/ENGAMR340172005?open&of=ENG-GTM> (accessed 10/20/05) [hereinafter *Amnesty Report 2005*"].

<sup>3</sup> We adopt the term "femicide" throughout this report in referring to these murders, as we believe it adequately captures the gender-specific nature of these crimes, including the sexual violence and domestic violence that often accompanies them.

<sup>4</sup> See Appendix 3: The Sunday Times Magazine (London), Times Online, *Beasts of Prey*, August 28, 2005, available at <http://www.timesonline.co.uk/article/0,,2099-1740992,00.html> (accessed 10/22/05); See also Washington Office on Latin America, Press Release on Guatemalan Human Rights Ombudsman Report (July 14, 2005) available at [http://www.wola.org/central\\_america/guatemala/guatemala\\_feminicides\\_press\\_release\\_july05.pdf](http://www.wola.org/central_america/guatemala/guatemala_feminicides_press_release_july05.pdf) (accessed 10/20/05) [hereinafter *WOLA Press Release, July 14, 2005*]. It should be noted that until very recently, there was a blackout of coverage in the major U.S. press on the issue of the Guatemalan femicides. This silence came to a welcome end with the publication of an October 21, 2005, editorial on the killings in The New York Times. See Appendix 4.

<sup>5</sup> As of August 2004, of the 152 femicide cases examined by the Office of the Special Prosecutor for Crimes Against Women, nearly one third of the victims had previously been threatened and sought protection of the authorities. *Amnesty Report 2005* at 23.

<sup>6</sup> According to a National Civil Police (Policia Nacional Civil or PNC) officer, "The majority of the

women that have been assassinated is on account of the fact that they reported their cases to the Public Ministry." *Investigación sobre Femenicidio en Guatemala* [*Investigation on Femicides in Guatemala*], prepared by Guatemalan congresswoman Alba Estela Maldonado, available at [http://pangea.org/~entrep/noticias/archivos/INVESTIGACION\\_SOBRE\\_FEMINICIDIO\\_EN\\_GUATEMALA.pdf](http://pangea.org/~entrep/noticias/archivos/INVESTIGACION_SOBRE_FEMINICIDIO_EN_GUATEMALA.pdf) (accessed 10/22/05) at 59 [hereinafter *Investigation on Femicide*].

<sup>7</sup> Appendix 3.

<sup>8</sup> U.N. Economic and Social Council, Commission on Human Rights, *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women, Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Addendum, Mission to Guatemala*, para. 58, U.N. Doc. E/CN.4/2005/72/Add.3 (February 10, 2005) (prepared by Yakin Erturk) [hereinafter *Report of the Special Rapporteur*].

<sup>9</sup> Canada, which has accepted gender asylum cases since 1993, has kept statistics on the number of gender claims. It has reported that since such claims have been recognized in Canada, they have made up only a very small percentage of the overall asylum claims filed. See Karen Musalo and Stephen Knight, *Unequal Protection*, Bulletin of Atomic Scientists, Special Issue: Seeking Refuge, Nov/Dec 2002, available at [http://www.thebulletin.org/article.php?art\\_ofn=nd02musalo](http://www.thebulletin.org/article.php?art_ofn=nd02musalo) [accessed 11/05/05]. In addition, after the grant of asylum to Fauziya Kassindja, a young woman fleeing female genital cutting (FGC), the U.S. Immigration and Naturalization Service, kept statistics on the number of FGC claims; they also reported that there was no significant explosion of claims. U.S. Department of Justice, INS, Questions and Answers on the R-A- Rule, at 3 (Dec. 7, 2000), available at <http://www.ins.usdoj.gov/graphics/publicaffairs/questionsans/rarule.htm>.

<sup>10</sup> *In re R-A-*, Interim Dec. 3403, at 909, (BIA 1999), available at <http://www.usdoj.gov/eoir/vll/intdec/vol22/3403.pdf>.

<sup>11</sup> *Id.*

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<sup>12</sup> *Id.* at 910.

<sup>13</sup> There is confusion over the actual figures reported by the PNC. *See* Appendix One. As the Amnesty report makes clear, "the precise number of women who have been murdered is unknown and disputed" due to different institutions using different criteria; and a possibility of underreporting resulting from relatives' fear of reporting a murder and lack of public confidence in state institutions. *Amnesty Report 2005* at 1.

<sup>14</sup> Procurador de los Derechos Humanos de Guatemala, "*Muertes Violentas de Mujeres Durante el 2004*", at 16, (2005) available at [http://www.wola.org/central\\_america/guatemala/pdh\\_informe\\_mujeres.pdf](http://www.wola.org/central_america/guatemala/pdh_informe_mujeres.pdf) [hereinafter *Violent Deaths*].

<sup>15</sup> *Report of the Special Rapporteur* at para. 29. There were 370 documented murders in Ciudad Juarez between 1993 and 2003 and at least 40 documented murders between 2003 and early 2005. However, the actual number of women abducted and murdered in Ciudad Juarez and Chihuahua, a neighboring city in the same state in Mexico, since 1993 is unknown and could be as high as 800. *See* Amnesty International, *Mexico, Intolerable Killings, 10 Years of abductions and murders of women in Ciudad Juarez and Chihuahua*, (August 2003) available at <http://web.amnesty.org/library/index/ENGAMR410262003> (accessed 10/17/05); *See also* WOLA, *Still Waiting for Justice, Appendix One: Murders of Women in Juarez and Chihuahua, Mexico Since 2004* (March 2005), available at [http://www.wola.org/Mexico/hr/ciudad\\_juarez/appendices\\_waiting\\_for\\_justice.pdf](http://www.wola.org/Mexico/hr/ciudad_juarez/appendices_waiting_for_justice.pdf) (accessed 10/17/05).

<sup>16</sup> *See, e.g., Investigation on Femicide* at 25; *Amnesty Report 2005* at 12; *Violent Deaths* at 27.

<sup>17</sup> A Human Rights Ombudsman report on the murders that took place in 2003 was unable to determine the occupation of the victims in 43% of the cases, and police statistics for the murders in 2004 similarly failed to determine the occupation of victims in 37% of the cases. *Investigation on Femicide* at 26.

<sup>18</sup> *Amnesty Report 2005* at 4.

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<sup>19</sup> According to one news report, in 2005, the rate of femicides has increased in the cities and towns outside of Guatemala City, with femicide becoming a rural as well as urban phenomenon. *See Mujeres de la provincia, las más afectadas por el femicidio en el 2005* available at [www.isis.cl/Feminicidio/Prensa/docprensa/agosto/020805Guatemala.doc](http://www.isis.cl/Feminicidio/Prensa/docprensa/agosto/020805Guatemala.doc) (accessed 10/22/05).

<sup>20</sup> *Investigation on Femicide* at 28.

<sup>21</sup> Affidavit of October 2005 of Ana Maria Mendez, human rights activist and friend of Claudina Velásquez.

<sup>22</sup> *Amnesty Report 2005* at 10.

<sup>23</sup> *See, e.g., Id.; Investigation on Femicide* at 23.

<sup>24</sup> *Amnesty Report 2005* at 11.

<sup>25</sup> *Id.* at 10-11.

<sup>26</sup> United States Department of State, *Guatemala: Country Reports on Human Rights Practices, 2003* available at <http://www.state.gov/g/drl/rls/hrrpt/2003/27900.htm> (accessed 10/22/05) [hereinafter State Department 2003].

<sup>27</sup> United States Department of State, *Guatemala: Country Reports on Human Rights Practices, 2004* available at <http://www.state.gov/g/drl/rls/hrrpt/2004/41762.htm> (accessed 10/22/05) [hereinafter State Department 2004].

<sup>28</sup> *State Department 2003; State Department 2004.*

<sup>29</sup> *See* Human Rights Watch, *From the Household to the Factory: Sex Discrimination in the Guatemalan Labor Force*, January 2002, available at <http://hrw.org/reports/2002/guat/> (accessed 10/22/05) [hereinafter *From the Household*].

<sup>30</sup> *Investigation on Femicide* at 10.

<sup>31</sup> Interamerican Commission on Human Rights, *Justicia en Inclusión Social: Los Desafíos de la Democracia en Guatemala* [Justice and Social Inclusion: The Challenges of Democracy in Guatemala], para. 305,

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OEA/Ser.L/V/II.118, doc. 5 rev. 1 (December 29, 2003) *available at* <http://www.cidh.oas.org/countryrep/Guatemala2003sp/capitulo5.htm> (accessed 10/22/05) [hereinafter *Justice and Social Inclusion*].

<sup>32</sup> *From the Household*, Chapter IV at 2.

<sup>33</sup> *Id.*

<sup>34</sup> *See generally, From the Household*.

<sup>35</sup> *Guatemala: Memoria del Silencio, Informe de Comision para el Esclarecimiento Histórico [Guatemala: Memory of Silence: Report of the Historical Clarification Committed]*, paras. 2350, 2478, *available at* [http://shr.aaas.org/guatemala/ceh/gmds\\_pdf/cap2\\_2.pdf](http://shr.aaas.org/guatemala/ceh/gmds_pdf/cap2_2.pdf) (accessed 10/22/05).

<sup>36</sup> *Id.* at para. 2376.

<sup>37</sup> Reproductive Health Response in Conflict Consortium, *If Not Now, When? Addressing Gender-based Violence in Refugee, Internally Displaced and Post-Conflict Settings*, 112, *available at* <http://www.rhrc.org/pdf/gbvlamerica.pdf> (accessed 11/05/05).

<sup>38</sup> *Amnesty Report 2005* at 20.

<sup>39</sup> The Guatemalan government has noted that 64% of all deaths are related to the low prevalence of health services, the limited infrastructure of sewage systems and indoor plumbing, and poor nutrition. Center for Reproductive Law and Policy, *Women of the World: Laws and Policies Affecting their Reproductive Lives: Latin American and the Caribbean*, 112, *available at* [http://www.reproductiverights.org/pdf/wowlac\\_guatemala.pdf](http://www.reproductiverights.org/pdf/wowlac_guatemala.pdf) (accessed 10/22/05) [hereinafter *Women of the World*]. Inequality is rife; while the poorest die from lack of indoor plumbing, 70% of the land in Guatemala is controlled by 2% of Guatemalans, one of the most skewed land distribution patterns in the world and the second most inequitable in Latin America. Lisa Viscidi, *A History of Land in Guatemala: Conflict and Hope for Reform*, Americas Program (Silver City, NM: Interhemispheric Resource Center, September 17, 2004), *available at* <http://www.americaspolicy.org/citizen-action/focus/2004/0409guatland.html> (accessed

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10/22/05). Although Guatemala has the largest economy in Central America, it has the third highest degree of income inequality among low to middle income countries, with the poorest one-fifth of the population having only 1.9% of the total income. *From the Household*, Chapter IV at 1.

<sup>40</sup> *Justice and Social Inclusion* at para. 313.

<sup>41</sup> *From the Household*, Chapter IV at 1.

<sup>42</sup> *See* USAID, *Budget Guatemala*, at <http://www.usaid.gov/policy/budget/cbj2006/lac/gt.html> (accessed 10/22/05).

<sup>43</sup> *Amnesty Report 2005* at 12.

<sup>44</sup> *Id.* at para. 26.

<sup>45</sup> *See Report of the Special Rapporteur* at para. 22.

<sup>46</sup> *Investigation on Femicide* at 35.

<sup>47</sup> *En lo que va del año se reportan 405 asesinadas [So far this year, 405 women reported murdered]*, Diario Siglo Veintiuno (Guatemala), November 3, 2004 *available at* <http://www.c.net.gt/ceg/diario/2004/nov2004/di mq1103.html> (accessed 10/22/05).

<sup>48</sup> *Investigation on Femicide* at 35.

<sup>49</sup> *Id.* at 32.

<sup>50</sup> *Report of the Special Rapporteur* at para. 58.

<sup>51</sup> *Amnesty Report 2005* at 21.

<sup>52</sup> *See id.* at 21-22.

<sup>53</sup> *See generally*, Hilda Morales Trujillo, Angélica Valenzuela, Maria del Rosario Velásquez, *Delitos Contra las Mujeres: Una Nueva Vision: Propuesta para Modificar el Código Penal*, 18, Magna Terra Editores, November 2002, [hereinafter *Crimes Against Women: A New Vision: Proposal for Modifying the Criminal Code*].

<sup>54</sup> In the United States, the prosecutor has the ultimate discretion to pursue charges of sex crimes. While the victim's willingness to cooperate may be a factor (the prosecution may drop the charges in



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some jurisdictions if a victim does not wish to cooperate), the onus is on the State to prosecute the crime.

<sup>55</sup> *Amnesty Report 2005* at 24.

<sup>56</sup> *Justice and Social Inclusion* at 299: "La Violencia intrafamiliar no constituye delito; en consecuencia, no puede iniciarse un proceso a menos que existan lesiones. En ese casos, debe determinarse el tiempo que requerirá la curación para establecer si corresponde iniciar o no un proceso. Sin embargo, cuando la mujer comparece en general ya no hay lesiones presentes, por lo que nada puede hacerse."

<sup>57</sup> *Amnesty Report 2005* at 5.

<sup>58</sup> See, e.g., *Investigation on Femicide* at 52, *Amnesty Report 2005* at 15.

<sup>59</sup> *Investigation on Femicide* at 53.

<sup>60</sup> *Id.* at 51.

<sup>61</sup> *State Department 2004*.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Investigation on Femicide* at 49.

<sup>65</sup> *Report of the Special Rapporteur* at para. 59.

<sup>66</sup> *Investigation on Femicide* at 49, 59; *Justice and Social Inclusion* at 5.

<sup>67</sup> *Id.* at 59: "La mayoría de las mujeres que han asesinado es porque denuncian sus casos en el Ministerio Público."

<sup>68</sup> *Amnesty Report 2005* at 25.

<sup>69</sup> *Id.* at 12.

<sup>70</sup> *Id.* at 8.

<sup>71</sup> *Investigation on Femicide* at 57.

<sup>72</sup> Additional initiatives charged with the defense of women's rights include the Women's Office of the

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Public Ministry (Fiscalía de la Mujer), the Office for the Defense of Indigenous Women (Defensoría de la Mujer Indígena), the Office for the Defense of Women's Rights (Defensoría de los Derechos de la Mujer) of the Human Rights Ombudsman's Office and the Presidential Secretariat for Women (SEPREM). Following her 2004 visit, the U.N. Special Rapporteur on Violence Against Women called for strengthening the legal and financial base of these State institutions. *Report of the Special Rapporteur* at 20.

<sup>73</sup> Stephen Schlesinger and Stephen Kinzer, *Bitter Fruit: The Story of the American Coup in Guatemala*, Expanded Version (Harvard University Press 1999) (1982) at 265.

<sup>74</sup> The stated justifications for U.S. involvement in Guatemala are the U.S. national interests in the containment of illegal migration, narco-trafficking and organized crime, the strengthening of democracy, the fulfillment of the Peace Accords, and building trade capacity. USAID, *Congressional Budget Justification for Fiscal Year 2005*, available at [http://www.usaid.gov/policy/budget/cbj2005/lac/pdf/guatemala\\_cbj\\_fy05.pdf](http://www.usaid.gov/policy/budget/cbj2005/lac/pdf/guatemala_cbj_fy05.pdf) (accessed 9/1/05).

<sup>75</sup> See United States General Accounting Office, *U.S. Democracy Programs in Latin American Countries Have Yielded Modest Results*, at 3, March 2003, available at <http://www.gao.gov/new/items/d03358.pdf> (accessed 9/1/05) [hereinafter GAO 2003].

<sup>76</sup> GAO 2003 at 6.

<sup>77</sup> USAID, *Data Sheet: Guatemala*, at 3, available at <http://www.usaid.gov/policy/budget/cbj2006/lac/gt.html> (accessed 9/1/2005) [hereinafter USAID *Data Sheet: Guatemala*].

<sup>78</sup> USAID, *Women in Development, Women's Legal Rights Initiative*, available at [http://www.usaid.gov/our\\_work/crosscutting\\_programs/wid/activities/womens\\_legalrights\\_rc.html](http://www.usaid.gov/our_work/crosscutting_programs/wid/activities/womens_legalrights_rc.html) (accessed 9/15/05) [hereinafter USAID, *WID, WLR*].

<sup>79</sup> U.S. State Department, INL, International Narcotics Control Strategy Report ("INCSR") 2004, Canada, Mexico and Central America, (Washington D.C.: Mar. 2005) available at

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<http://www.state.gov/g/inl/rls/nrcrpt/2005/vol1/html/42364.htm>.

<sup>80</sup> See *supra* note 15.

<sup>81</sup> See Appendix Two. See also 109 H. Con. Res 90 (2005) and 109 S. Con. Res 16 (2005) (A concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased U.S. involvement in bringing an end to these crimes).

<sup>82</sup> On October 11-13, 2003, the Washington Office on Latin America (WOLA), the Latin American Working Group and the Mexican Solidarity Network co-sponsored a congressional delegation to Ciudad Juarez, Mexico, to investigate the hundreds of femicides that have occurred in that community since 1993. The delegation included four congressmembers as well members of human rights and policy organizations. The delegation met with family members of murder victims; human rights, women's rights, and solidarity organizations; labor organizers; *maquiladora* owners; Mexican legislators; and officials from the municipal, state, and federal governments. Washington Office on Latin America, *Trip Report: October 2003 Congressional Delegation to Ciudad Juarez, Mexico*, available at [http://www.wola.org/Mexico/hr/ciudad\\_juarez/trip\\_report.htm](http://www.wola.org/Mexico/hr/ciudad_juarez/trip_report.htm) (accessed 9/27/05).

<sup>83</sup> Following the October 2003 delegation to Guatemala, Representative Hilda Solis (CA, 32<sup>nd</sup> District) sponsored a joint resolution condemning the murders of women in Ciudad Juarez. 109 H. Con. Res 90 (2005). Representative Silvestre Reyes (TX, 16<sup>th</sup> District) sponsored two amendments to existing appropriations bills to condemn the murders and provide economic assistance for training and forensic investigation thereof. See 151 Cong Rec. H 4494 (2005); 151 Cong Rec. H 6117 § 947 (2005).

<sup>84</sup> Among U.S. national interests in providing economic assistance to Guatemala is the fulfillment of the Peace Accords. See USAID, *Congressional Budget Justification for Fiscal Year 2005*.

<sup>85</sup> Guatemala ratified the Optional Protocol to the U.N. Convention on the Elimination of all Forms of

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Discrimination Against Women in 2002; it ratified the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Par ) in 1995 and the Convention on the Elimination of all Forms of Discrimination Against Women in 1982. See *Amnesty Report 2005* at 14.

<sup>86</sup> Marital rape is not recognized as a criminal offense; therefore spouses or live-in partners cannot be charged with the crime of rape. Moreover, a rape offender is exonerated of the crime if he marries the victim. *Crimes Against Women: A New Vision: Proposal for Modifying the Criminal Code* at 18, citing Decreto No. 17-73, del Congreso de la Rep blica. Art. 200.

<sup>87</sup> Amnesty International identified serious and persistent shortcomings in the way authorities responded to cases of femicide at every stage of the investigative process, including delays and insufficient efforts by police to locate women who have been reported missing, and failure to protect the crime scene to gather necessary forensic or other evidence once a body has been discovered, or to act on arrest warrants. *Amnesty Report 2005* at 15.

<sup>88</sup> Amnesty International identified serious deficiencies in the forensic examination services including a failure to carry out fluids analysis and preserve samples of specimens, such as seminal fluid, blood, skin or hair. Moreover, there is no state laboratory to administer DNA tests in Guatemala. See *id.* at 17.

<sup>89</sup> There is no national register of missing people in Guatemala or a national identity register; the head of the Female Homicide Unit of the PNC stated that it was difficult to establish whether an unidentified victim had previously been reported as missing because there was no coordination with the Missing Persons Unit. See *id.* at 18.

<sup>90</sup> Currently, \$10,743,000 is allocated to the Guatemala Women's Legal Rights project. Chemonics International, *Latin American and Caribbean, Current Projects*, available at [http://www.chemonics.com/Projects/submit\\_search\\_contracts.aspx?showBack=1&ckCurrent=1&selRegion={6F03A3B3-F2AB-4851-A6D0-C728FBE87D14}](http://www.chemonics.com/Projects/submit_search_contracts.aspx?showBack=1&ckCurrent=1&selRegion={6F03A3B3-F2AB-4851-A6D0-C728FBE87D14}) (accessed 9/15/05) [hereinafter *Chemonics International, LAC Current Projects*].

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<sup>91</sup> USAID's Ruling Justly program provided \$6.8 million in economic assistance to Guatemala in 2004 and \$7.8 million in 2005. USAID, *Data Sheet: Guatemala*, at 3.

<sup>92</sup> USAID awarded Chemonics International the contract for the Women's Legal Rights Initiative in 2002; the project in Guatemala is slated to run through 2007. Chemonics International, *LAC Current Projects*. While women's access to the criminal justice system has been identified as a problem, femicide has not. See Chemonics International Inc., *Women's Legal Rights Initiative Year Two Work Plan: October 2003 – September 2004*, 1, (January 2004), available at [http://www.dec.org/pdf\\_docs/PDACA407.pdf](http://www.dec.org/pdf_docs/PDACA407.pdf) (accessed 9/15/05) [hereinafter *Chemonics International, WLR Year Two Work Plan*].

<sup>93</sup> The current WLR project is a results-driven project. The data collected in the quarterly reports is intended to drive the allocation of funds and resources. See *Chemonics International, WLR Year Two Work Plan* at 2.

<sup>94</sup> Despite an agreement signed between the PNC and the Public Ministry to develop a single, unified forensics lab in 2002, such a lab has yet to be developed. GAO 2003 at 42 n. 8. In a letter dated May 31, 2005, USAID Assistant Administrator for Legislative and Public Affairs, J. Edward Fox, stated that USAID would commit up to \$300,000 for lab fees and forensics training to Mexican officials investigating the femicides in Ciudad Juarez and Chihuahua Mexico. See 151 Cong. Rec. E. 1601 (July 25, 2005).

<sup>95</sup> International Religious Freedom Act of 1998, Pub. L. No. 105-292, 112 Stat. 2787 (1998), as amended by Pub. L. No. 106-55, 113 Stat. 401 (1999).

<sup>96</sup> Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000), as amended by the Trafficking and Violence Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003).

<sup>97</sup> Congress should follow the approach it has taken with Human Trafficking. See Trafficking and Violence Protection Reauthorization Act of 2003,

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Pub. L. No. 108-193, § 5(d)(1)(B) (requiring countries to provide specific data regarding investigations, prosecutions, convictions and sentences of individuals involved in human trafficking).

<sup>98</sup> In both the International Religious Freedom Act and the Trafficking and Violence Protection Act, Congress provided specific punitive measures, including economic sanctions, for failure to comply with the minimum standards of each Act. See 105 Pub. L. 292 §§ 401(b)(1)(A), 405(a); 106 Pub. L. 386 § 110(d), as amended.

<sup>99</sup> *Amnesty Report 2005* at 12, citing the Network of No Violence Against Women.

<sup>100</sup> See *supra* note 86; See also *Amnesty Report 2005* at 30.

<sup>101</sup> *Amnesty Report 2005* at 12.

<sup>102</sup> See *supra* note 89; *Amnesty Report 2005* at 18.

<sup>103</sup> See *supra* note 88; *Amnesty Report 2005* at 17.

<sup>104</sup> A major weakness in Guatemala is a lack of judges, prosecutors, and lawyers, as well as civil society advocates, who fully understand the legal framework from a gender perspective. *Chemonics International, WLR Year Two Work Plan* at 12.

<sup>105</sup> In the case of violence against women in the family, prosecutors have said that the perpetrator can only be charged with a criminal offense if signs of physical injury remain visible for at least ten days. *Amnesty Report 2005* at 24.

<sup>106</sup> *Id.* at 30.

<sup>107</sup> See *Report of the Special Rapporteur*, para. 68; Recommendation 1.

<sup>108</sup> *Id.* at para. 1.

<sup>109</sup> *Amnesty Report 2005* at 29-30.

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## Appendix One:

### Femicides Since 2001

The exact number of femicides is unknown. Organizations such as the Washington Office on Latin America (WOLA), Amnesty International and the U.S. State Department have all relied on sources such as the Red de la No Violencia Contra las Mujeres (Network of No Violence Against Women), the Guatemalan Human Rights Ombudsman, the National Civil Police (PNC), and the Special Rapporteur on Violence Against Women. However, there is some discrepancy as to actual figures among the sources.

An analysis of the varying data indicates that at least 1,500 women have been murdered in Guatemala since 2001.

#### **Murders in 2005**

- § As of October, the Red de la No Violencia Contra las Mujeres reported 509 femicides in 2005.
- § In July 2005, the Washington Office on Latin America cited the PNC, reporting 316 femicides in the first five months of 2005.
- § In its article, *Beasts of Prey*, published on August 28, 2005, the London Sunday Times Magazine reported 312 murders in the first five months of 2005.

#### **Murders in 2004**

- § The Red de la No Violencia Contra las Mujeres reported that 590 women were murdered in 2004.
- § There is some confusion over the actual figures reported by the PNC. In his

report, *Violent Deaths of Women in 2004*, the Guatemalan Human Rights Ombudsman cited the PNC as providing it with the number of 497 murders in 2004. However, Amnesty International states that the PNC reported 527 killings of women in 2004. The U.S. State Department's 2004 Report on Human Rights Practices in Guatemala also reported 527 femicides.

- § According to Special Rapporteur on Violence Against Women, Yakin Erturk, at the beginning of December 2004, 489 murders had been reported.

#### **Murders in 2003**

- § The Guatemalan Human Rights Ombudsman reported 383 femicides in 2003. The U.S. State Department reported this same number in its 2003 Report on Human Rights Practices in Guatemala.
- § The Special Rapporteur on Violence Against Women cited the PNC, which reported 358 murders of women in 2003.

#### **Murders in 2002**

- § Both the PNC and the Human Rights Ombudsman reported 317 femicides in 2002.

#### **Murders in 2001**

- § The PNC reported 303 murders in 2001.

## Appendix Two:

Concurrent Resolution Conveying Sympathy of Congress to the families of the young women murdered in Chihuahua, Mexico and encouraging increased U.S. involvement in resolving the crimes

On March 9, 2005, in both the Senate and the House of Representatives, members introduced a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased U.S. involvement in bringing an end to the crimes.

**House Concurrent Resolution 90:**

Conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

Whereas the Mexican cities of Ciudad Juarez and Chihuahua have been plagued with the abduction, sexual assault, and brutal murders of more than 370 young women since 1993;

Whereas there have been at least 30 murders of women in Ciudad Juarez and the city of Chihuahua since 2004;

Whereas at least 137 of the victims were sexually assaulted prior to their murders;

Whereas more than half of the victims are women and girls between the ages of 13 and 22, and many were abducted in broad daylight in well-populated areas;

Whereas these murders have brought pain to the families and friends of the victims on both sides of the border as they struggle to cope with the loss of their loved ones;

Whereas many of the victims have yet to be positively identified;

Whereas the perpetrators of most of these heinous acts remain unknown;

Whereas the Mexican Federal Government has taken steps to prevent these abductions and murders in Ciudad Juarez, including setting up a commission to coordinate Federal and State efforts, establishing a 40-point plan, appointing a special commissioner, and appointing a special prosecutor;

Whereas the Federal special prosecutor, in her ongoing review of the Ciudad Juarez murder investigations, found evidence that over 100 police, prosecutors, forensics experts, and other State of Chihuahua justice officials failed to properly investigate the crimes, and recommended that they be held accountable for their acts of negligence, abuse of authority, and omission;

Whereas in 2003 the El Paso Field Office of the Federal Bureau of Investigation and the El Paso Police Department began providing Mexican Federal, State, and municipal law enforcement authorities with training in investigation techniques and methods;

Whereas the United States Agency for International Development has begun providing assistance to the State of Chihuahua for judicial reform;

Whereas the government of the State of Chihuahua has jurisdiction over these crimes;

Whereas the Governor and Attorney General of the State of Chihuahua have expressed willingness to collaborate with the Mexican Federal Government and

United States officials in addressing these crimes;

Whereas the Department of State has provided consular services on behalf of the American citizen and her husband who were tortured into confessing to one of the murders;

Whereas Mexico is a party to the following international treaties and declarations that relate to abductions and murders: the Charter of the Organization of American States, the American Convention on Human Rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination Against Women, the United Nations Declaration on Violence Against Women, the Convention on the Rights of the Child, the Convention of Belem do Para, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance, and the United Nations Declaration on the Protection of All Persons From Enforced Disappearance; and

Whereas continuing impunity for these crimes is a threat to the rule of law in Mexico: Now, therefore, be it Resolved by the House of Representatives (the Senate concurring), That Congress –

(1) condemns the ongoing abductions and murders of young women in Ciudad Juarez and the city of Chihuahua in the State of Chihuahua, Mexico, since 1993;

(2) expresses its sincerest condolences and deepest sympathy to the families of the victims of these murders;

(3) recognizes the courageous struggle of the victims' families in seeking justice for the victims;

(4) urges the President and Secretary of State to incorporate the investigative and preventative efforts of the Mexican Government in the bilateral agenda between the Governments of Mexico and the United States and to continue to express concern over these abductions and murders to the Government of Mexico;

(5) urges the President and Secretary of State to continue to express support for the efforts of the victims' families to seek justice for the victims, to express concern relating to the continued harassment of these families and the human rights defenders with whom they work, and to express concern with respect to impediments in the ability of the families to receive prompt and accurate information in their cases;

(6) supports efforts to identify unknown victims through forensic analysis, including DNA testing, conducted by independent, impartial experts who are sensitive to the special needs and concerns of the victims' families, as well as efforts to make these services available to any families who have doubts about the results of prior forensic testing;

(7) condemns the use of torture as a means of investigation into these crimes;

(8) encourages the Secretary of State to continue to include in the annual Country



Report on Human Rights of the Department of State all instances of improper investigatory methods, threats against human rights activists, and the use of torture with respect to cases involving the murder and abduction of young women in the State of Chihuahua;

(9) encourages the Secretary of State to urge the Government of Mexico and the State of Chihuahua to review the cases of murdered women in which those accused or convicted of murder have credibly alleged they were tortured or forced by a state agent to confess to the crime;

(10) strongly recommends that the United States Ambassador to Mexico visit Ciudad Juarez and the city of Chihuahua for the purpose of meeting with the families of the victims, women's rights organizations, and Mexican Federal and State officials responsible for investigating these crimes and preventing future such crimes;

(11) encourages the Secretary of State to urge the Government of Mexico to ensure fair and proper judicial proceedings for the individuals who are accused of these abductions and murders and to impose

appropriate punishment for those individuals subsequently determined to be guilty of such crimes;

(12) encourages the Secretary of State to urge the State of Chihuahua to hold accountable those law enforcement officials whose failure to adequately investigate the murders, whether through negligence, omission, or abuse, has led to impunity for these crimes;

(13) recognizes the special prosecutor has begun to review cases and encourages the expansion of her mission to include the city of Chihuahua;

(14) strongly supports the work of the special commissioner to prevent violence against women in Ciudad Juarez and Chihuahua City;

(15) condemns all senseless acts of violence in all parts of the world and, in particular, violence against women; and

(16) expresses the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

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## Appendix Three:

The Sunday Times Magazine (London), Times Online, *Beasts of Prey*, August 28, 2005

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# The Sunday Times Magazine

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The Sunday Times

August 28, 2005

## Investigation

### Beasts of prey

**In Guatemala, women are being raped, mutilated and murdered in their thousands. Even little girls have to constantly look over their shoulders. There is little chance of the perpetrators being caught — because often the law is right behind them. Christine Toomey investigates**

There is a country where a man can escape a rape charge if he marries his victim — providing she is over the age of 12. In this country, having sex with a minor is only an offence if the girl can prove she is "honest" and did not act provocatively. Here, a battered wife can only prosecute her husband if her injuries are visible for more than 10 days. Here too it is accepted in some communities that fathers "introduce" their daughters to sex.

In this country the body of a girl barely into her teens, or a mother, or a student, can be found trussed with barbed wire, horrifically mutilated, insults carved into her flesh, raped, murdered, beheaded and dumped on a roadside. In its capital city, barely a day goes by without another corpse being found. Bodies are appearing at an average of two a day this year: 312 in the first five months, adding to the 1,500 females raped, tortured and murdered in the past four years.

This country is Guatemala, and to be a woman here is to be considered prey. Prey to murderers who know they stand little chance of being caught. Prey not just on the street, nor at night, nor in back alleys, but in their homes, outside offices, in broad daylight. In Guatemala someone has declared war on women. Someone has decreed it doesn't matter that so many are dying in grotesque circumstances. Someone has decided that if a woman or a girl is found dead she must have asked for it, she must be a prostitute, too insignificant to warrant investigation. Everyone here knows women are being murdered on a huge scale, and not by one serial killer, nor two nor even three, but by a culture. So why is this happening? Why is it being allowed to continue?

. . . . .

Manuela Sachaz was no prostitute. She was a baby-sitter, newly arrived in the city to care for the 10-month-old son of a working couple. They found her body on the floor in a pool of blood. The baby was propped up in a high chair, his breakfast still on the table in front of him. Both had been beheaded. The nanny had been raped and mutilated; her breasts and lips had been cut off, her legs slashed.

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Maria Isabel Veliz was just a happy teenage girl with a part-time job in a shop. She was found lying face down on wasteland to the west of the capital. Her hands and feet had been tied with barbed wire. She had been raped and stabbed; there was a rope around her neck, her face was disfigured from being punched, her body was punctured with small holes, her hair had been cut short and all her nails had been bent back.

Nancy Peralta was a 30-year-old accountancy student who failed to return home from university. She was found stabbed 48 times; her killer or killers had tried to cut off her head.

But you have to dig deep to find the families and talk to their neighbours and friends to learn about the terrible things that are happening in this small Central American country sandwiched between Mexico and El Salvador.

Newspapers here carry a daily tally of the number of female corpses found strewn in the streets, but such discoveries are usually considered so insignificant they are relegated to a sentence or paragraph at the bottom of an inside page. Brief mention may be made of whether the woman has been scalped, tortured, decapitated, dismembered, trussed naked in barbed wire, abandoned on wasteland or, as is common, dumped in empty oil drums that serve as giant rubbish bins. Some reports might mention that "death to bitches" has been carved on the women's bodies, though there is rarely a mention of whether the woman or girl, some as young as eight or nine, has been raped. According to Dr Mario Guerra, director of Guatemala City's central morgue, the majority have. Many of the women are simply designated "XX", or "identity unknown". This is because they have often been taken far from the place where they were abducted and subjected to unimaginable tortures before being killed. It can take the women's families days, weeks or months to trace them. Many are unrecognisable and, as there is no DNA profiling here, some are never claimed and simply buried in unmarked communal graves.

. . . . .

To truly understand what is happening in this country and what happened to Manuela, Maria Isabel or Nancy, you have to spend a few moments stepping back in time to the darkest days of Guatemala's 30-year civil war. The slaughter began earlier here and lasted much longer than in El Salvador and neighbouring Nicaragua, though it escalated for similar reasons. It escalated because, in the context of the cold war, successive United States administrations felt threatened by the election of liberal and socialist governments in the region and the emergence of left-wing guerrilla insurgencies. Often secretly, they proceeded to pump massive military aid into these countries' armed forces and right-wing rebels to fight the leftists — though in the case of Guatemala, what happened was a more blatant case of protecting US corporate interests.

By the early 1950s, vast swathes of Guatemala lay in the hands of America's United Fruit Company. In 1954, when the country's left-leaning government started expropriating some of this land to distribute to the poor, the CIA, whose director had financial ties to the company, orchestrated a military coup. Land reform stopped, left-wing guerrilla groups began to form and the US-sponsored anti-insurgency campaign began. The 30-year cycle of repression that followed, reaching its bloodiest peak in the 1980s, was the most violent, though least reported, in Latin America. Large areas of the countryside were razed, their population, mostly Mayan Indian, massacred. Villagers were herded into churches and burnt, whole families sealed alive in wells. Political opponents were assassinated, women were raped before being mutilated and killed. The wombs of pregnant women were cut open and fetuses strung from trees. By the time the UN brokered a peace deal in 1996, over 200,000 had been killed,

40,000 "disappeared" and 1.3m had fled their homes, to leave the country or become internal refugees. This in a country with a population of little over 10m.

When the Catholic Church concluded in 1998 that 93% of those killed (in what were later recognised as "acts of genocide") had perished at the hands of the country's armed forces, paramilitary death squads and the police, the bishop who wrote the report was bludgeoned to death on his doorstep. Unusually, given the country's climate of almost complete impunity, three army officers were convicted of his murder.

In recognition that it was those the US had armed, and in part trained in methods of sadistic repression, who were responsible for most of the atrocities, the UN-sponsored peace deal demanded that the country's armed forces and police be reduced and reformed. It also demanded that those responsible for the worst atrocities be brought to justice. Not only did this not happen, but Efraim Ríos Montt, the general accused of acts of genocide at the height of the war (charges famously dismissed by the former US president Ronald Reagan as a "bum rap"), subsequently stood for president. Though he failed in this bid, he was eventually elected president of Congress — a position similar to the Speaker of the House. And while the army and police force were pared down, and in the case of the police their uniforms updated, the men did not change. In a land that has seen such lawless atrocity go unpunished, it is not surprising that life should be cheap. And in a land where the culture of machismo is so pronounced, it is not surprising that men have become accustomed to thinking they can murder, torture and rape women with impunity.

This is not, of course, how the police here see it. It is astonishing how quickly the police chief Méndez, in charge of a special unit set up last year to investigate the murder of women, agrees to see me. Considering his workload, you would think he was a busy man. But when I call to make an appointment I'm told he can see me at any time. The reason for this courtesy quickly becomes apparent. Not a lot seems to be going on in Méndez's office; his unit appears to be little more than window-dressing. Tucked away in a low building on the roof of the National Civil Police HQ in the heart of the capital, the office looks almost vacant; four desks sit in the far corners of the sparsely furnished room, separated by a row of filing cabinets. The only wall decoration is a large chart of the human body "to help police officers write up their reports of injuries inflicted on murder victims". There are four computers, only two of which are switched on. Apart from Méndez and his secretary, there are three other police officials in the room at the time of my visit. All sit huddled in a corner chatting and laughing throughout the interview.

When asked what he believes lies at the root of such extraordinary violence towards women in Guatemala, Méndez repeats a mantra that seems to be widely held as normal: "Women are coming out of their homes and participating in all aspects of society more. Many men hate them for this." He adds, as if it were necessary, that "this is a country with many machistas [male chauvinists]". It is difficult to interpret the latter as a complaint, however, when the police chief's young secretary is standing behind him in an overtight uniform, stroking his hair as we speak.

Méndez attributes the general climate of violence to burgeoning drug-trafficking, the proliferation of illegal arms and to vicious infighting between rival street gangs — known here as *maras*, after a breed of swarming ants. In a country with at least 1.5m unregistered firearms, which last year alone imported an estimated 84m rounds of ammunition, this is a large part of the picture. Guatemala City is now one of the deadliest cities in the world, with a per-capita murder rate five times higher than even Bogotá in war-torn Colombia. The police chief taints this overview, however, by suggesting that one way of tackling the problem would be to get rid of the bothersome legal presumption of innocence when arresting suspects.

Given such attitudes, it is hardly surprising that less than 10% of the murders of women have been investigated. Even less so when you consider the case of 19-year-old Manuela and the baby, Anthony Hernandez, in her care.

In the vicinity of the small apartment that baby's parents, Monica and Erwin Hernandez, shared with their son and the baby-sitter, on the second floor of an apartment block in the Villa Nueva district of Guatemala City, there lived a middle-aged police officer. Clutching a photo of her grandson and struggling to talk through her tears, Cervelia Roldan recalls how the baby's mother, Monica, came looking for her after she finished work on the Wednesday before Easter last year. "She asked me if I had seen Manuela, because she wasn't opening the apartment door and my daughter-in-law didn't have a key. We went back to the apartment together and started calling out Manuela's name, but there was no answer. Then that man, the policeman, came to the front door of his apartment block. It was about five in the afternoon, but he was wearing just his dressing gown. He seemed very agitated and told us to look for Manuela in the market."

When Cervelia's son went back to his apartment a short while later with his wife and mother and still nobody answered their calls, he broke a window to open the apartment door. He found the body of the baby-sitter and their child inside. Three days later the policeman shaved off his beard and moved away. "Neighbours told me later how he used to pester Manuela," says Cervelia, who claims that after the double murder, Manuela's bloodstained clothing was found in his house. The authorities dispute this: they say the blood on the clothing does not match that of the baby or his nanny. Cervelia, however, says she has seen the policeman in the neighbourhood several times since the killings. "He laughs in my face," she says. "What I want is justice, but what do we have if we can't rely on the support of the law?"

It is a burning question. Of the 527 murders of women and girls last year, only one of these deaths has resulted in a prosecution. And what explains the extreme savagery to which female, yet few male, murder victims are subjected? Nearly 40% of those killed are registered as housewives and over 20% as students. Yet according to Mendez, the hallmark mutilations of women killed are the result of "satanic rituals" that form initiation ceremonies for new gang members. The overwhelming impression given by the government is that gangs are to blame for most of the killings. A spokesman for the Public Ministry — the equivalent of the Home Office — where the file on the murder of Anthony Hernandez and Manuela Sachaz now languishes, claims they could have been murdered because Manuela was a gang member, even though the teenager had only recently arrived in the capital from the countryside to work as a baby-sitter.

In the poorest barrios of Guatemala City, where gangs proliferate, gang members — known as pandilleros — admit some women are caught up in inter-gang rivalry. "But a lot of women are being murdered so police can blame their deaths on us and kill us indiscriminately," said one heavily tattooed 19-year-old slouched against a wall in a neighbourhood where the headless corpse of a young woman had been found a few hours previously. "The police only have to see a group of two or more of us with tattoos hanging about and they start shooting."

We witnessed this first-hand. Within minutes of arriving in this neighbourhood to speak to members of the country's largest gang, the Mara Salvatrucha, two squad cars came screeching across the rail tracks, police jumped from their cars, cocked their rifles and ordered the youths to brace themselves against the walls. According to the police, a "concerned" member of the community had called them, worried about the presence of strangers — the photographer Carlos Reyes and me — in their midst. This seems unlikely. A likelier scenario is that the police were tipped off that a group of pandilleros was gathering. Had we not been there, the gang members

are convinced they would have been shot. Had this happened, there would almost certainly have been no investigation. For, since the end of the civil war, organised crime networks that have infiltrated the government, the army and the police at every level, recruit gang members to do their dirty work, then murder them — both to eliminate witnesses and "socially cleanse" the streets of those regarded as a common scourge.

Human-rights workers, who are regularly subjected to death threats and intimidation, also say blaming the murder rate on gang violence is a deliberate oversimplification of the problem. Women, they say, are not only being "killed like flies" because they are considered of no worth, but they are also being used as pawns in power struggles between competing organised crime networks. "A key element in the history of Guatemala is the use of violence against women to terrorise the population," explains Eda Gaviola, director of the Centre for Legal Action on Human Rights (CALDH). "Those who profit from this state of terror are the organised criminals involved in everything from narco-trafficking to the illegal adoption racket, money-laundering and kidnapping. There are clear signs of connections between such activities and the military, police and private security companies, which many ex-army and police officers joined when their forces were cut back."

Earlier this year, the ombudsman's office issued a report saying it had received information implicating 639 police officers in criminal activities in the past 12 months, and that it had opened cases against 383 of those, who were charged with crimes ranging from extortion and robbery to rape and murder. Given that most of the population is afraid to report crimes, this figure is almost certain to be a considerable underestimate of police complicity.

Three years ago, Amnesty International labelled Guatemala "a corporate Mafia state" controlled by "hidden powers" made up of an "unholy alliance between traditional sectors of the oligarchy, some new entrepreneurs, the police, military and common criminals". Today, to coincide with the publication of this article, Amnesty is launching a protest appeal on its website to form a petition of those appalled by what is happening to women in Guatemala. This will be presented to the country's president, in an effort to put international pressure on authorities in the country to take action to stop it. Without such pressure, few believe the government will take the problem seriously.

For Guatemala is a small country, condemned by its geography to relative obscurity. In neighbouring Mexico, in Ciudad Juarez, a city that sits on the northern border with the US, the murder of over 300 women in the past decade has drawn international attention. Film stars such as Jane Fonda and Sally Field, accompanied by busloads of female students from around the world calling themselves "vagina warriors", have marched into town for special performances of The Vagina Monologues, to highlight and denounce what has been dubbed "femicide". Yet here, few pay any heed to what is happening.

An attempt by the UN to set up a commission with powers to investigate and prosecute the country's "hidden powers" — expected to serve as a model for other post-conflict countries — has been dismissed by the Guatemalan authorities as "unconstitutional". There is now a debate about how the terms of the commission can be amended to make it acceptable. But as the talking continues, so does the killing.

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Rosa Franco has been fighting for the past four years for the authorities to investigate the murder of her teenage daughter Maria Isabel. Surrounded by photos of the girl wearing a white dress with flowers in her hair at a church service to celebrate her 15th birthday, Rosa hands me some notes her daughter wrote her before she was killed — a few months after these photos were taken. They are the tender notes of a teenager with deep religious faith. "Sometimes my daughter would visit me at work and pretend she needed to use my computer for her homework. But what she really wanted was to leave me a note telling me how much she loved me," says Rosa, a secretary who had been studying for a law degree before Maria Isabel died in mid-December 2001. "She was proud of what I was trying to do," says Rosa, who was left to raise her daughter and two younger sons alone after their father left them. One of the notes, written on Valentine's Day of that year, tells her mother to "always look ahead and up, never down". This has been an almost impossible task since the day her daughter disappeared.

Rosa remembers every detail of that day. "As usual, she did not want breakfast — she wanted to stay thin — though I persuaded her to have a bowl of cornflakes before she left for work. I had given my daughter permission to work in a shop during the Christmas holidays, as she wanted to buy herself some new clothes. I wasn't well that day and went to sleep early. When I woke up the next day and my daughter wasn't there, I went to the police to report her missing. They said she'd probably run away with a boyfriend."

That night, while watching a round-up of the news, Rosa recognised, from the clothing Maria Isabel had been wearing when she left for work the day before, the body of her daughter lying face-down on wasteland to the west of the capital. When she went to the morgue and discovered the brutality to which her daughter had been submitted, she lost consciousness. "When I collapsed, they told me not to get so worked up," says Rosa, who later suffered a heart attack. When Rosa began pushing the police to find her daughter's killers, presenting them with records that the girl's mobile phone had been used after her death, and tracking down witnesses who gave descriptions of the girl being pulled from a car, the authorities accused her of meddling and dismissed her daughter publicly as a prostitute.

Such smear campaigns are used to intimidate the families of female murder victims. A spate of killings of prostitutes was given prominent media coverage after the police started compiling statistics according to the sex of murder victims four years ago; it was only then that the scale of violent deaths among women emerged.

Undeterred by this tactic, Rosa has continued to demand justice — and the intimidation has increased. Her teenage sons are often followed home from school. Cars with several occupants watching her house sit a short distance from her home in regular rotation — one is there the night we sit talking in her living room. Human-rights workers say such surveillance is a mark that the murder has a connection with officialdom and organised crime. "I'm afraid," Rosa says. "But when I see reports of more and more murders of girls and women, I know what other mothers are going through. I vow I will not give up my fight."

It is a sentiment shared by two sisters, Maria Elena and Liliana Peralta, whose elder sister, Nancy, was killed just a few months after Maria Isabel. When the sisters and their parents reported that the 30-year-old accountancy student had not returned home from university in February 2002, they were told by police to come back in a few days if she didn't turn up. The next day, their father read about the body of an unidentified young woman being found on the outskirts of the capital. When he rang the morgue he was told it could not be that of his daughter, as the



physical description of her did not match, though one item of clothing she had been wearing when she left home was the same as that on the body recovered. When the sisters' father went to the morgue to check, he found his daughter had not only been killed, but her body had been horrifically mutilated.

"When I talk to the police, they jokingly refer to my sister as 'the living dead'. They insisted she had not died, as some other student had assumed her identity to enrol on a new university course. They showed no interest in investigating what had happened," says Maria Elena, who is now studying law to bring her sister's killers to justice.

One of the complaints of Rosa Franco and the Peralta family is that even the most basic forensic tests, such as those of body fluids, that may help identify the murderers in both cases were never carried out at the morgue. Its director, Dr Guerra, argues that his efforts to contribute to criminal investigations are hampered by the lack of a forensic laboratory on site and the absence of DNA-testing facilities in the country; samples, when taken, have to be flown to Costa Rica or Mexico for analysis. "Until a few years ago, the US helped train our workers in forensic science," says Guerra. "But now that help has stopped."

Convinced they are being thwarted by the Guatemalan authorities, Rosa Franco and the Peralta family are considering taking their cases to the Inter-American Commission. But most victims' families have neither the resources nor the know-how to launch a legal fight. Instead they sit in queues waiting to talk to human-rights workers and beg for news about what is being done to bring those who killed their loved ones to justice. The usual answer is nothing.

On just one day in June, these queues included Catalina Macario, the mother of 12-year-old Hilda, who had been eviscerated with a machete for resisting rape — Hilda survived, but was shunned by her community because of the stigma attached to sexual violence — and Maria Alma de Villatoro, whose 21-year-old daughter, Priscilla, was stabbed to death by her boyfriend for refusing to have an abortion.

"Women here are dying worse than animals. When the municipality announced this summer that it was launching a campaign to exterminate stray dogs, the public took to the streets in protest and it was stopped," says Andrea Barrios of CALDH. "But there is a great deal of indifference towards the murder of women, because a picture has been painted that those who die somehow deserve what they get."

"Neither the police nor the government are taking this seriously. Yet what we are observing is pure hatred against women in the way they are killed, raped, tortured and mutilated," says Hilda Morales, the lawyer heading a network of women's groups formed as the problem has escalated. The situation is unlikely to change, she argues, unless international pressure is brought to bear and foreign investors are made aware of what is going on in the country and start questioning their business dealings there.

Claudia Samayoa, another member of the network, says: "Fifty years ago, the UN signed a declaration decreeing we all have certain basic human rights. With so much conflict in the world, if anyone were to say a choice must be made between helping us and helping those in Darfur, we'd say help Darfur. But how does the international community make such selections? What are the agreements they sponsor worth if there is no follow-through to ensure they're met?"

Far removed from the mayhem of modern-day Guatemala City, in the country's northern rainforest, rich with remains of pre-Colombian Mayan civilisation, archeologists entering a long-sealed crypt recently stumbled upon an ancient murder scene. The remains of two women, one pregnant, were arranged in a ritual fashion: the result, it was said, of a power struggle between rival Mayan cities. More than a millennium-and-a-half later, the women of Guatemala are still being slaughtered as part of a savage power play.

*To register your protest, visit: [www.amnesty.org.uk](http://www.amnesty.org.uk)*

Getting Away With Murder:  
Guatemala's Failure to Protect Women and Rodi Alvarado's Quest for Safety  
November 2005

## Appendix Four:

The New York Times, *Guatemala's Murdered Women*,  
October 21, 2005 (Editorial)

# The New York Times

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## Guatemala's Murdered Women

For the last five years, Guatemala has suffered an epidemic of gruesome killings of women that are as mysterious as they are brutal. Typically a young woman in Guatemala City vanishes, and her body turns up a few days later in a garbage bag or in an open field. Many of the women's faces and bodies have been mutilated, and many have been tortured sexually or otherwise. Some of the bodies have messages, like "death to bitches," scrawled on them.

In Ciudad Juárez, Mexico, a pattern of hundreds of killings of this type has drawn international condemnation. But aside from reports by Amnesty International and the Inter-American Commission on Human Rights, the Guatemalan women's deaths have gotten very little attention. At least a thousand women have been victims in the past five years, and only three killers are in prison. The police do not even investigate a vast majority of cases.

Guatemala does not keep reliable statistics. But it is clear that a pattern of these killings was first seen in 2000, and the reported numbers have risen since then. Last year, there were 590 such killings of women, and the murders have grown more grisly. Many of the women were victims of gang warfare. Others were killed by husbands or boyfriends. But there are also cases of college students or shop workers who had no links to crime and simply disap-

peared — until their bodies were found.

What the women have in common is that their cases go nowhere. Overwhelmingly, victims' families report that the response of the authorities is a lack of interest. The police assure them that a missing daughter, for example, has run off with a boyfriend. When the body turns up, the crime is often dismissed with comments that the dead woman must have been a gang member or a prostitute, or killed by her partner — as if those were justifications for failing to investigate.

Guatemala has recently signed several international conventions protecting women, and it has established such new organizations as the office of the special prosecutor for crimes against women. But this progress is largely on paper. Laws are not enforced, and there is no money to finance the new offices. Guatemala is still a country where a rapist can escape charges by marrying the victim, and domestic violence cases can be prosecuted only if the victim can still show bruises 10 days later. Sexual harassment is not illegal.

When such outdated attitudes toward women prevail, it is easy for the local authorities to justify taking no action when young women are murdered. Their inaction gives an official green light to the killers of women.